

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID K. LAMB,

Plaintiff,

v.

CORIZON, et al.,

Defendants.

Case No. 2:18-cv-61

HON. JANET T. NEFF

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed a motion to voluntarily dismiss Defendant Wilson, Defendant Shullick, and Plaintiff's state claims. Meanwhile, Defendants filed a motion to revoke Plaintiff's *in forma pauperis* status under 28 U.S.C. § 1915(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending this Court grant both Plaintiff's motion to dismiss and Defendants' motion to revoke. The matter is presently before the Court on Plaintiff's objection to the Report and Recommendation, to which Defendants filed a response and Plaintiff, albeit without leave, filed a reply. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which an objection has been made. The Court denies the objection and issues this Opinion and Order.

Plaintiff argues that his *in forma pauperis* status should not be revoked because he was in "imminent danger of serious physical injury at the time of the filing of the current complaint" (ECF

No. 57 at PageID.665). Plaintiff alleges that in 2018 he suffered from “numerous spinal medical symptoms,” including: (1) severe pain, (2) erectile dysfunction, and (3) passing of urination and stool on himself (*id.*). The Magistrate Judge considered Plaintiff’s assertion “that the pain associated with his recovery was excruciating,” but concluded Plaintiff “fail[ed] to assert facts that would allow the Court to conclude he was subject to imminent danger of serious physical injury at the time he filed his complaint” (ECF No. 56 at PageID.663). Plaintiff’s objection merely reiterates his position, without demonstrating any factual or legal error in the Magistrate Judge’s conclusion. Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court.

Additionally, the Court notes that in Plaintiff’s Reply (ECF No. 65) to Defendant’s Response to Objection (ECF No. 62), Plaintiff represents that “the remainder of the filing fee will be paid the first of the year, thus making the report and recommendation on the filing fee moot” (ECF No. 65 at PageID.739). Indeed, as of January 15, 2020, the filing fee of \$350 has been paid in full and is now satisfied. Therefore:

IT IS HEREBY ORDERED that the Objection (ECF No. 57) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 56) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Dismissal of Defendant Wilson, Defendant Shullick, and Plaintiff’s state law claims (ECF No. 36) is GRANTED.

IT IS FURTHER ORDERED that Defendants’ Motion to Revoke Plaintiff’s *in forma pauperis* status (ECF No. 33) is GRANTED.

Dated: February 19, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge